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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/509,098	09/27/2004	Nicolaas Laurisse Sieling	6001-1005	1275
466	7590	08/03/2006		
EXAMINER				
BATSON, VICTOR D				
ART UNIT		PAPER NUMBER		
		3671		

DATE MAILED: 08/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/509,098	SIELING, NICOLAAS LAURISSE	
	Examiner	Art Unit	
	Victor Batson	3671	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 10 April 2006.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 13-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 13-17 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 10 April 2006 is/are: a) accepted or b) objected to by the Examiner.
 - Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 - Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date: _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 102

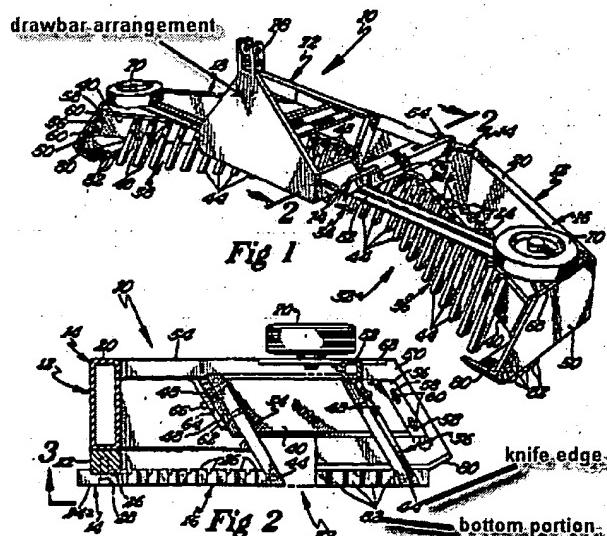
The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

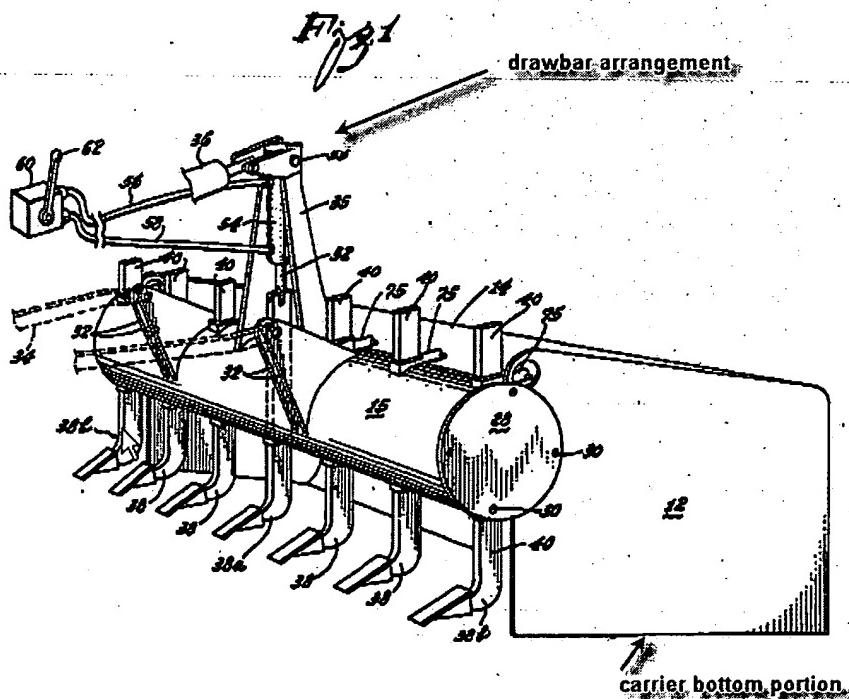
Claims 13,16,17 are rejected under 35 U.S.C. 102(b) as being anticipated by Johnsen (5,211,247).

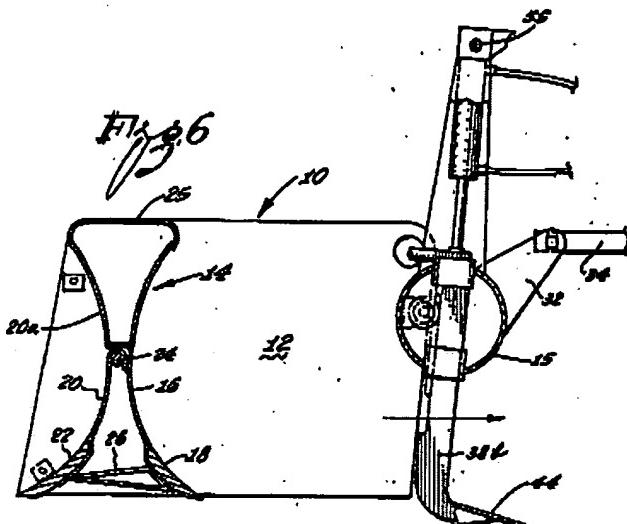
Johnsen discloses a ground leveling apparatus arranged to be drawn behind a prime mover comprising a ground engaging knife edge (considered the bottom edges of members 44), mounted on an elongate carrier joined to a drawbar arrangement with a carrier having a bottom portion that is parallel to the knife edge, with the drawbar arrangement (considered the three point hitch connection structure) being arranged to position the carrier so that the knife edge is level with the bottom portion such that the carrier remains on the ground under its own weight as shown in figures 1 & 2.



Claims 13-17 are rejected under 35 U.S.C. 102(b) as being anticipated by McGee (3,058,243).

McGee discloses a ground leveling apparatus arranged to be drawn behind a prime mover comprising a ground engaging knife edge (18, 22), mounted on an elongate carrier 12 joined to a drawbar arrangement with a carrier 12 having a bottom portion that is parallel to the knife edge, with the drawbar arrangement (considered the three point hitch connection structure) being arranged to position the carrier so that the knife edge is level with the bottom portion such that the carrier remains on the ground under its own weight as shown in figures 1 & 6. Concerning claim 14, the carrier is considered to include cylindrical member 15 and the draw bars 34 are considered the elongate members.





Response to Arguments

Applicant's arguments with respect to claims 13-17 have been considered but are moot in view of the new ground(s) of rejection.

The declaration filed on 4/10/06 under 37 CFR 1.131 has been considered but is ineffective to overcome the references used in the previous rejection. The declarations discuss features disclosed in the specification, but not recited in the claims. For example, declarant discusses control of a front end loader bucket to an accuracy of much less than about 10mm (page 6 of declarant Bruce Archibald Short), however such control or range is not claimed. Similarly, declarant discusses fine-movement-to-moment control of a blade, including lifting the blade by about 5 cm (page 9 of declarant Nicolaas Laurisse Sieling), however such control or range is not claimed. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed.

Cir. 1993). Additionally, the declarations argue against the references individually. The examiner notes however, that one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). For example declarant's discuss the disadvantage of using wheels, however, the prior art rejection does not suggest that Solaja be modified to include wheels. Furthermore, the declarations amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references. Accordingly, declarant's opinions are of little probative value and fall short of establishing a connection between the objective evidence offered and the merits of the claimed invention. Additionally, a nexus between declarant's opinions and the merits of the claimed invention has not been established.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor Batson whose telephone number is (571) 272-6987. The examiner can normally be reached on Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Will can be reached on (571) 272-6998. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Victor Batson
Primary Examiner
Art Unit 3671

July 31, 2006